

**OPINION
47-141**

March 17, 1947 (OPINION)

GARNISHMENT

RE: Refund of Fee on Dismissal

This will acknowledge your letter of March 15, 1947, in which you state that on or before January 30, 1947, Attorney H. L. Halvorson, Jr., deposited a \$3.00 fee in connection with a garnishment proceeding of R. W. Pence v. Joe Clementich, defendant. This fee was deposited by Attorney Halvorson before any disclosure by the state auditor. The garnishment proceeding was dismissed. You inquire whether the \$3.00 fee tendered with the garnishment proceeding and deposited with the state treasurer may now be refunded to Mr. Halvorson who has submitted a voucher to the state auditing board requesting such refund of that amount.

Chapter 88 of the 1945 Session Laws provides for miscellaneous refunds. The sum of \$2500.00 provided therefore was appropriated specifically for the purpose of making certain refunds out of the general fund that had been erroneously deposited or credited to the general fund. The appropriation covers the biennium from July 1, 1945 to June 30, 1947.

It is the opinion of this office that if there are funds on hand in the miscellaneous refund account in the treasurer's office that the refund of \$3.00 for the garnishment fee tendered in this connection, and deposited with the state treasurer, before disclosure by the state auditor, may be refunded to Mr. Halvorson.

NELS G. JOHNSON

Attorney General